



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT RELATIVE TO PANDEMIC AND DISASTER PREPARATION AND RESPONSE IN THE COMMONWEALTH.

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 **SECTION 1.** Chapter 17 of the General Laws is hereby amended by striking out
2 section 2A, as appearing in the 2006 Official Edition, and inserting in place thereof the
3 following section:-
4 Section 2A. (a) Upon declaration by the governor that an emergency exists which is detrimental
5 to the public health or upon declaration of a state of emergency under chapter 639 of the acts of
6 1950, as amended, the commissioner may, during such period of emergency, take such action
7 and incur such liabilities as he or she may consider necessary to assure the maintenance of
8 public health and the prevention of disease. The commissioner may establish procedures to be
9 followed during such emergency to ensure the continuation of essential public health services
10 and the enforcement of the same.

11 In circumstances where the governor declares that the emergency detrimental to public health is
12 limited to a specified local area, the appropriate local public health authority, as defined in
13 section 1 of chapter 111, may, with the approval of the commissioner, during such period of
14 emergency, take such action and incur such liabilities as it may deem necessary to assure the
15 maintenance of public health and the prevention of disease. Furthermore, in such
16 circumstances, such local public health authority may, with the approval of the commissioner,
17 establish procedures to be followed during such emergency to insure the continuation of
18 essential public health services and the enforcement of the same. Nothing in this section shall
19 supersede the normal operating authority of the local public health authorities, provided that
20 such authority shall not be exercised in a manner that conflicts with any procedure or order
21 issued by the Commissioner to assure the maintenance of public health and the prevention of
22 disease during such emergency.

23 (b) Upon declaring a public health emergency or state of emergency, the governor may activate
24 the state comprehensive emergency management plan and its associated processes, including
25 authority pursuant to chapter 639 of the acts of 1950. Such declaration may authorize the
26 deployment and use of any forces to which the plan applies and the use or distribution of any
27 supplies, equipment, materials, and facilities assembled, stockpiled, or available.

28 (c) During such public health emergency or state of emergency, any person who renders
29 assistance or advice during the emergency as provided in section 1 of chapter 258 shall be
30 protected from liability to the extent provided by chapter 258.

31 (d) During such public health emergency or state of emergency, any person owning or
32 controlling real estate or other premises who voluntarily and without compensation grants a
33 license or privilege, or otherwise permits the designation or use of the whole or any part or parts

of such real estate or premises for the purpose of assisting in responding to the emergency, shall not be civilly liable for causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for causing loss of, or damage to, the property of such person, except in the event of willful, wanton, or reckless misconduct.

The immunities provided in this subsection shall not apply to any person whose act or omission caused in whole or in part such emergency or who would otherwise be liable therefore.

(e) The declaration of an emergency detrimental to the public health shall terminate when so declared by the governor, or automatically after 90 days, unless renewed by the governor. Each renewal shall terminate after 90 days unless renewed for an additional 90 days, or unless sooner terminated by order of the general court.

(f) Upon termination of an emergency detrimental to the public health, all powers granted to and exercised by the commissioner and local public health authorities under this section and section 2B shall terminate.

SECTION 2. Said chapter 17 is hereby further amended by inserting after section 2A the following section:-

Section 2B. (a) In this section, "Health care facility", means any non-federal institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, community health centers, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatments

57 facilities, skilled nursing facilities, and adult day-care centers. The term also includes, but is not
58 limited to, the following related property when used for or in connection with the foregoing:
59 alternate care sites, laboratories; research facilities; pharmacies; laundry facilities; health
60 personnel training and lodging facilities; patient, guest, and health personnel food service
61 facilities; and offices and office buildings for persons engaged in health care professions or
62 services. In this section, “Health care provider”, means any person or entity that provides health
63 care services including, but not limited to, health plans, health maintenance organizations,
64 hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians,
65 pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses,
66 paramedics, and emergency medical or laboratory technicians. In this section, “Health care
67 professional”, includes, but is not limited to, a registered nurse, licensed practical nurse,
68 physician, physician assistant, dentist, pharmacist, pharmacy technician, psychologist and social
69 worker.

70 (b) Specifically, but without limiting the generality of section 2A and notwithstanding the
71 provisions of any other law, the commissioner shall have and may exercise, or may direct or
72 authorize other state or local government agencies to exercise, authority relative to any one or
73 more of the following if necessary to protect the public health during an emergency declared
74 pursuant to section 2A or a state of emergency declared under chapter 639 of the acts of 1950..
75 During either type of declared emergency, a local public health authority as defined in section 1
76 of chapter 111 may exercise authority relative to subparagraphs (1), (2), (3), (4), (6), (7), (13),
77 (14), and (15); and with the approval of the Commissioner may exercise authority relative to
78 subparagraphs (5), (8), (9), (10), and (11): (1) to require the owner or occupier of premises to
79 permit entry into and investigation of the premises;

80 (2) to close, direct, and compel the evacuation of, or to decontaminate or cause to be
81 decontaminated any building or facility, and to allow the reopening of the building or facility
82 when the danger has ended;

83 (3) to decontaminate or cause to be decontaminated, or to destroy any material;

84 (4) to restrict or prohibit assemblages of persons;

85 (5) to require a health care facility to provide services or the use of its facility, or to transfer the
86 management and supervision of the health care facility to the department or to a local public
87 health authority;

88 (6) to control ingress to and egress from any stricken or threatened public area, and the
89 movement of persons and materials within the area;

90 (7) to adopt and enforce measures to provide for the safe disposal of infectious waste and
91 human remains, provided that religious, cultural, family, and individual beliefs of the deceased
92 person shall be followed to the extent possible when disposing of human remains, whenever that
93 may be done without endangering the public health;

94 (8) to procure, take immediate possession from any source, store, or distribute any anti-toxins,
95 serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical
96 supplies located within the commonwealth as may be necessary to respond to the emergency;

97 (9) to require in-state health care providers to assist in the performance of vaccination,
98 treatment, examination, or testing of any individual as a condition of licensure, authorization, or
99 the ability to continue to function as a health care provider in the commonwealth;

100 (10) to waive the commonwealth's licensing requirements for health care professionals with a
101 valid license from another state in the United States or whose professional training would
102 otherwise qualify them for an appropriate professional license in the commonwealth;

103 (11) to allow for the dispensing of controlled substances by appropriate personnel consistent
104 with federal statutes as necessary for the prevention or treatment of illness;

105 (12) to authorize the chief medical examiner to appoint and prescribe the duties of such
106 emergency assistant medical examiners as may be required for the proper performance of the
107 duties of the office;

108 (13) to collect specimens and perform tests on any animal, living or deceased;

109 (14) to exercise authority under sections 95 and 96 of chapter 111;

110 (15) to care for any emerging mental health or crisis counseling needs that individuals may
111 exhibit, with the consent of the individuals.

112 Notwithstanding any provision of this section to the contrary, provided that, based on a periodic
113 review, the Commissioner has found that within the City of Boston, the local public health
114 authority has adequate and appropriate resources to exercise authority relative to subparagraph
115 (5), said local public health authority, after notifying the Commissioner, may exercise authority
116 relative to subparagraph (5) of this section during either type of declared emergency unless such
117 action is deemed by the Commissioner, after consultation with the local public health authority,
118 to be contrary to the interests of the Commonwealth.

119 Upon request or issuance of an order by the commissioner or his or her designee, or by a local
120 public health authority or its designee, an officer authorized to serve criminal process may arrest
121 without a warrant any person whom the officer has probable cause to believe has violated an
122 order given to effectuate the purposes of this subsection and shall use reasonable diligence to
123 enforce such order.

124 Any person who knowingly violates an order of the commissioner or his or her designee, or of a
125 local public health authority or its designee, given to effectuate the purposes of this subsection

126 shall be punished by imprisonment for not more than 6 months, or by a fine of not more than
127 one thousand dollars, or both.

128 (c) During an emergency declared pursuant to section 2A or a state of emergency declared
129 under chapter 639 of the acts of 1950 the commissioner may request assistance from the
130 Massachusetts emergency management agency and the department of state police.

131 (d) All state and local agencies of the Commonwealth engaged in responding to a public health
132 emergency declared pursuant to section 2A or a state of emergency declared under chapter 639
133 of the acts of 1950 shall consult and cooperate in:

134 (1) the exercise of their powers over routes of transportation and over materials and facilities
135 including but not limited to communication devices, carriers, public utilities, fuels, food,
136 clothing, and shelter; and

137 (2) Informing the people of the Commonwealth about how to protect themselves during the
138 emergency and its aftermath and what actions are being taken to control the emergency. For the
139 benefit of people of the Commonwealth who lack sufficient skills in English to understand the
140 information, reasonable efforts shall be made to provide the information in the primary
141 languages of those people as well as in English; and reasonable efforts shall be made to provide
142 the information in a manner accessible to individuals with disabilities.

143 (e) All state and local agencies of the Commonwealth engaged in responding to a public health
144 emergency declared pursuant to section 2A or a state of emergency declared under chapter 639
145 of the acts of 1950 are authorized to share and disclose information to the extent necessary for
146 the treatment, control, and investigation of the emergency.

147 (f) To the extent practicable consistent with the protection of public health, prior to the
148 destruction of any property during the emergency, the department of public health or a local

149 public health authority shall institute appropriate civil proceedings against the property to be
150 destroyed in accordance with the existing laws and rules of the courts of this Commonwealth or
151 any such rules that may be developed by the courts for use during the emergency. Any property
152 acquired by the department of public health or a local public health authority through such
153 proceedings shall, after entry of the decree, be disposed of by destruction as the court may
154 direct.

155 **SECTION 3.** Section 1 of Chapter 111, as appearing in the 2006 Official Edition, is
156 hereby amended by inserting after the definition of “inland waters” the following definition:-
157 “Local public health authority”, any body politic or political subdivision of the commonwealth
158 that acts as a board of health, public health commission, or health department for a city or town
159 and includes any board of health as defined in this section and any regional board of health or
160 regional health district as defined in section 27B of chapter 111.

161 **SECTION 4.** Section 5 of chapter 111, as so appearing, is hereby amended by inserting
162 after the word “disease” in line 4, the words:- and adverse health conditions

163 **SECTION 5.** Section 5A of chapter 111, as so appearing is hereby amended by striking
164 out the first paragraph thereof and inserting in place thereof the following two paragraphs:-
165 The department may purchase, produce, and distribute anti-toxins, serums, vaccines,
166 immunizing agents, antibiotics, and other pharmaceutical or medical supplies in the interest of
167 preparing for or controlling diseases dangerous to the public health.

168 Whenever the commissioner determines that the inoculation of or administration to the general
169 public, or a subset of the general public, of any antitoxin, serum, vaccine or other analogous
170 product is essential in the interest of the public health and that an emergency exists by reason of
171 a shortage or threatened shortage of such product, the department may purchase, produce, take

172 immediate possession from any source, and distribute such product under such conditions and
173 restrictions as it may prescribe; and while such shortage exists, as determined by the
174 commissioner, the commissioner may establish by written order or orders, rules and priorities
175 for the distribution and use of any such product within the commonwealth. Whoever violates
176 any provision of any such order shall be punished by a fine of not less than fifty dollars nor
177 more than two hundred dollars or by imprisonment for not more than six months, or both.

178 **SECTION 6.** Section 6 of said chapter 111, as so appearing, is hereby amended by
179 denoting the language thereof as subsection (a), and by inserting, after the word “diseases” in
180 lines 2 and 4 the following words:-, injuries, health conditions, and threats to health

181 **SECTION 7.** Section 6 of chapter 111 is hereby further amended by inserting after
182 subsection (a) the following six subsections:-

183 (b) The department shall have the power to specify, and shall from time to time specify, the
184 responsibilities of health care providers, medical examiners, and others to report, to the
185 department or to a local public health authority, diseases, injuries, health conditions, and threats
186 to health specified by the department. For purposes of this section, “health care provider” shall
187 include out-of-state medical laboratories, provided that such laboratories have agreed to the
188 reporting requirements of this commonwealth. The department shall have the power to specify,
189 and shall from time to time specify, the responsibilities of local public health authorities to
190 report diseases, injuries, health conditions, and threats to health to the department. The
191 Department may specify the responsibilities of pharmacists to report to the department unusual
192 or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy
193 visits that may indicate a threat to public health. Nothing in this section shall preempt the

194 authority of a local public health authority to require direct reporting of diseases, injuries, health
195 conditions, and threats to health to the local public health authority.

196 (c) Every local public health authority shall keep a record of all reports received under this
197 section, containing the name and location of all persons reported, their disease, injury, or health
198 condition, the name of the person reporting the case, the date of such report, and other
199 information required by the department. Such records shall be kept in the manner or upon forms
200 prescribed by the department. If a report concerns a student in or an employee of a public
201 school, the local public health authority shall notify the school health authorities. Every local
202 public health authority shall appoint some person who shall have the responsibility to make
203 reports to the department as provided in subsection (b).

204 (d) This subsection governs the confidentiality of information in the possession of the
205 department, a local public health authority, or any other governmental agency pursuant to their
206 authority under this section, section 2B of chapter 17, and sections 7, 95 and 96 of chapter 111.
207 Information that relates to an individual's past, present, or future physical or mental health,
208 condition, treatment, service, products purchased, or provisions of care, that reveals the identity
209 of the individual, or where there is a reasonable basis to believe that such information could be
210 utilized to reveal the identity of that individual, either alone or with other information that is, or
211 should reasonably be known to be, available to predictable recipients of such information, shall
212 not be considered a public record as defined in clause twenty-sixth of section 7 of chapter 4.
213 Such information shall be kept confidential except when necessary for disease investigation,
214 control, treatment, and prevention purposes. Only those individuals who have a specific need to
215 review such information to carry out the responsibilities of their employment shall be entitled to
216 access to such information.

217 (e) Whenever a person required to report learns of a case of a reportable disease or health
218 condition, an unusual cluster, or a suspicious event, that he or she reasonably believes may have
219 been caused by a criminal act, in addition to his or her other reporting responsibilities, he or she
220 shall immediately notify the state police. Whenever the department learns of a case of a
221 reportable disease or health condition, an unusual cluster, or a suspicious event, that it
222 reasonably believes may have been caused by a criminal act or that may result in an emergency
223 detrimental to the public health under section 2A of chapter 17 or a declared state of emergency
224 as defined under chapter 639 of the acts of 1950, as amended, it shall immediately notify the
225 appropriate public safety authorities, which may include the Massachusetts emergency
226 management agency, the department of the state police, and the police department in the city or
227 town where the event occurred, and it shall notify the appropriate federal health and safety
228 authorities. . Whenever a local public health authority learns of a case of a reportable disease or
229 health condition, an unusual cluster, or a suspicious event, that it reasonably believes may have
230 been caused by a criminal act or that may result in an emergency detrimental to the public
231 health under section 2A of chapter 17 or a declared state of emergency as defined under chapter
232 639 of the acts of 1950, it shall immediately notify the department and the police department in
233 the city or town where the event occurred, and may notify other appropriate public safety
234 authorities, which may include the Massachusetts emergency management agency the
235 department of state police, and the executive office of public safety and security. Sharing of
236 such information shall be restricted to that necessary for treatment and control of illness,
237 investigation of the incident, and prevention or control of the emergency.

238 (f) No person making a report under this section shall be liable in any civil or criminal action by
239 reason of such report if it was made in good faith.

240 (g) Any person required to report who refuses to file a report required by this section shall be
241 subject to a fine of not more than one thousand dollars. An individual health care provider shall
242 be subject to suspension or revocation of his or her license or certification if the refusal to file a
243 report is gross, wanton, or willful misconduct and poses a serious risk to the public health.

244 **SECTION 8.** Said chapter 111 is hereby further amended by striking out section 7, as
245 so appearing, and inserting in place thereof the following section:-

246 Section 7. (a) If a disease or condition dangerous to the public health exists or is likely to exist
247 in any place within the Commonwealth, the department shall make an investigation of it and of
248 the means of preventing its spread, and shall consult with the local authorities. It shall have
249 concurrent powers with the local public health authority in every city or town.

250 (b) The department is authorized to obtain, upon request, medical records and other information
251 that the department considers necessary to carry out its responsibilities to investigate, monitor,
252 prevent, and control diseases or conditions dangerous to the public health.

253 **SECTION 9.** Said chapter 111 is hereby further amended by inserting after section 25K
254 the following 2 sections:-

255 Section 25L. (a) The department of public health shall establish a registry of volunteer
256 personnel who are available to provide services, including but not limited to health and medical
257 services. The registry shall be known as the Massachusetts system for advance registration.
258 The department may establish requirements for registration including but not limited to
259 completion of training.

260 (b) The department shall establish a process to identify personnel in the Massachusetts system
261 for advance registration, which may include a requirement for photographic identification.

262 (c) The commissioner of public health may activate the Massachusetts system for advance
263 registration:

264 (1) during an emergency detrimental to the public health declared by the governor under section
265 2A of chapter 17;

266 (2) during a state of emergency declared by the governor under chapter 639 of the acts of 1950,
267 as amended;

268 (3) during a public health incident that demands an urgent response;

269 (4) pursuant to a request from a local public health authority when local resources have been or
270 are expected to be exhausted during a public health incident that demands an urgent response; ,
271 or

272 (5) pursuant to an official request from another state or from a province of Canada.

273 The location of duty may be within the commonwealth, or may be in another state or a province
274 of Canada if an official request for assistance has been received from such state or province.

275 (d) If the situation within Massachusetts for which the Massachusetts system for advance
276 registration is activated requires either numbers or expertise of personnel that are beyond the
277 capacity of said system to provide, the commissioner may request personnel from other states
278 having similar personnel registries. In such a case, out of state personnel when acting as
279 authorized personnel in Massachusetts shall receive the protections provided in subsections (g)
280 and (h) to members of the Massachusetts system for advance registration. This subsection shall
281 not apply to or affect a deployment under chapter 339 of the Acts of 2000, known as the
282 Interstate Emergency Management Assistance Compact, or under section 58 of chapter 300 of
283 the Acts of 2002, known as the International Emergency Management Assistance Compact.

284 (e) Any mobile assets and response resources of the National Disaster Medical System in
285 Massachusetts may be activated for duty when they are not formally activated in federal service,
286 by the commissioner under the circumstances stated in subsection (c), subparagraphs (1)
287 through (4). When so activated, individuals who are members of the National Disaster Medical
288 System shall receive the protections provided in subsections (g) and (h) to members of the
289 Massachusetts system for advance registration.

290 (f) Any Massachusetts medical reserve corps established pursuant to section 300hh-15 of
291 chapter 42 of the United States code may be activated for duty under the circumstances stated in
292 subsection (c), subparagraphs (1) through (4), and when such activation is authorized by the
293 commissioner, members of such corps shall receive the protections provided in subsections (g)
294 and (h) to members of the Massachusetts system for advance registration.

295 (g) In the absence of any other protections provided by law, whenever activated for duty,
296 members of the Massachusetts system for advance registration shall be construed to be
297 employees of the commonwealth for the purposes of chapter 258 of the general laws.

298 (h) In the absence of any other benefits provided by law, any member of the Massachusetts
299 system for advance registration who dies or who sustains disability or injury while activated for
300 duty shall be construed to be an employee of the commonwealth and shall be compensated in
301 like manner as state employees are compensated under the provisions of sections 69 through 75
302 of chapter 152 of the general laws.

303 (i) The department of public health is authorized to promulgate rules and regulations to
304 implement this section.

305 Section 25M. (a) The governor may declare that a supply emergency exists, after conferring
306 with the attorney general and the director of consumer affairs and business regulation, as a

307 result of a natural disaster, military act, civil disorder, terrorist act, bio-terrorist act or other
308 extraordinary circumstance. The governor shall support said declaration of a supply emergency
309 by making written findings regarding the market disruption, the product(s) or services(s) that
310 are in short supply, and that the product(s) or service(s) are essential to the health, safety or
311 welfare of the people. This written declaration shall be filed with the house and senate clerks,
312 the attorney general and the office of consumer affairs and business regulation. The supply
313 emergency shall automatically terminate ninety days after its declaration but may be renewed
314 once more by the governor under the same standards and procedures set forth in this paragraph.

315 (b) By a majority vote, the general court may terminate a declaration of a supply emergency
316 upon finding that the market disruption has ended, the product(s) or service(s) are no longer in
317 short supply, and/or that the product(s) or service(s) are not essential to the health, safety or
318 welfare of the people.

319 (c) The attorney general, in consultation with the office of consumer affairs and business
320 regulation, and upon the declaration by the governor that a supply emergency exists, shall take
321 appropriate action to ensure that no person shall sell a product or service that is at a price that
322 unreasonably exceeds the price charged before the emergency. The attorney general may make
323 reasonable rules and regulations governing exceptions for the additional costs incurred in
324 connection with the acquisition, production, distribution or sale of an energy resource, as well as
325 rules and regulations regarding violations of this section. Nothing in this paragraph shall
326 preempt chapter 93A or any rules or regulations promulgated under such chapter.

327 **SECTION 10.** Said chapter 111 is further amended by adding at the end of section 26E,
328 the following paragraph:-

329 The authority of the commissioner of health to employ necessary officers, agents and assistants
330 in order to execute health laws and its regulations includes the exclusive authority to supervise
331 and otherwise oversee said officers, agents and assistants. Authority pursuant to this section
332 preempts any ordinance, by-law, regulation or other state or local law that provides for the
333 employment and supervision of department of health officers, agents and assistants.

334 **SECTION 11.** Said chapter 111 is further amended by adding at the end of section 27,
335 the following paragraph:

336 The authority of the board of Health to employ necessary officers, agents and assistants in order
337 to execute health laws and its regulations includes the exclusive authority to supervise and
338 otherwise oversee said officers, agents and assistants. Authority pursuant to this section
339 preempts any ordinance, bylaw, regulation or other state or local law that provides for the
340 employment and supervision of local board of health officers, agents and assistants.

341 **SECTION 12.** Section 94A of said chapter 111, as so appearing, is hereby amended by
342 striking out subsection (d) and inserting in place thereof the following subsection:-
343 (d) Law enforcement authorities, upon order of the commissioner or his agent or at the request
344 of a local public health authority pursuant to such order, shall assist emergency medical
345 technicians or other appropriate medical personnel in the involuntary transportation of such
346 person to the tuberculosis treatment center. No law enforcement authority or medical personnel
347 shall be held criminally or civilly liable as a result of an act or omission carried out in good faith
348 in reliance on said order.

349 **SECTION 13.** Said chapter 111, as so appearing, is hereby further amended by striking
350 out section 95 and inserting in place thereof the following section:-

351 Section 95. (a) Whenever the commissioner, or a local public health authority within its
352 jurisdiction, determines that there is reasonable cause to believe that a disease or condition
353 dangerous to the public health exists or may exist or that there is an immediate risk of an
354 outbreak of such a disease or condition, and that certain measures are necessary to decrease or
355 eliminate the risk to public health, the commissioner or local public health authority may issue
356 an order. The order may be a verbal order in exigent circumstances, and in such case it shall be
357 followed by a written order as soon as reasonably possible. The written order shall specify the
358 reasons for it, and may include, but is not limited to:

359 (1) requiring the owner or occupier of premises to permit entry into and investigation of the
360 premises;

361 (2) requiring the owner or occupier of premises to close the premises or a specific part of the
362 premises, and allowing reopening of the premises when the danger has ended;

363 (3) requiring the placarding of premises to give notice of an order requiring the closing of the
364 premises;

365 (4) requiring the cleaning or disinfection, or both, of the premises or the thing specified in the
366 order;

367 (5) requiring the destruction of the matter or thing specified in the order.

368 The written order shall be delivered personally to the person to whom it is directed, but if that is
369 not possible, it shall be delivered in a manner that is reasonably calculated to notify such person
370 of it.

371 If a person does not comply with the order, and if the commissioner or the local public health
372 authority determines that non-compliance poses a serious danger to public health, upon request
373 or issuance of an order by the commissioner or local public health authority, an officer

374 authorized to serve criminal process may arrest without a warrant any person whom the officer
375 has probable cause to believe has violated such an order and shall use reasonable diligence to
376 enforce such order.

377 If a person does not comply with the order within the time specified in the order, but the non-
378 compliance does not pose a serious danger to public health, the commissioner or the local public
379 health authority may apply to a judge of the superior court for an order requiring the person to
380 comply with the order within the time specified in the order of the court; and to take whatever
381 other action the court considers appropriate in the circumstances to protect the public health.

382 The law enforcement authorities of the city or town where the person is present shall enforce the
383 court order.

384 Any person who knowingly violates an order, as to which non-compliance poses a serious
385 danger to public health as determined by the commissioner or the local public health authority,
386 shall be punished by imprisonment for not more than 30 days or a fine of not more than one
387 thousand dollars per day that the violation continues, or both. It shall not be a defense to a
388 prosecution for this offense that the commissioner or the local public health authority
389 erroneously determined that non-compliance would pose a serious danger to public health, if the
390 commissioner or local public health authority was acting in good faith under color of official
391 authority.

392 A person who knowingly violates any other order issued under this subsection may be subject to
393 a civil fine of not more than one thousand dollars per day that the violation continues. Any fine
394 collected for any violation of this section shall be credited fifty percent to the courts and fifty
395 percent to the health care safety net trust fund.

396 The commissioner or the local public health authority may recover expenses incurred in
397 enforcing the order from the person to whom the order was directed, by action in the superior
398 court.

399 (b) Furthermore, when the commissioner or a local public health authority within its jurisdiction
400 determines that either or both of the following measures are necessary to prevent a serious
401 danger to the public health the commissioner or local public health authority may exercise the
402 following authority:

403 (1) to vaccinate or provide precautionary prophylaxis to individuals as protection against
404 communicable disease and to prevent the spread of communicable or possibly communicable
405 disease, provided that any vaccine to be administered must not be such as is reasonably likely to
406 lead to serious harm to the affected individual; and

407 (2) to treat individuals exposed to or infected with disease, provided that treatment must not be
408 such as is reasonably likely to lead to serious harm to the affected individual.

409 An individual who is unable or unwilling to submit to vaccination or treatment shall not be
410 required to submit to such procedures but may be isolated or quarantined pursuant to section 96
411 of chapter 111 if his or her refusal poses a serious danger to public health or results in
412 uncertainty whether he or she has been exposed to or is infected with a disease or condition that
413 poses a serious danger to public health, as determined by the commissioner, or a local public
414 health authority operating within its jurisdiction.

415 (c) Furthermore, when the commissioner or a local public health authority within its jurisdiction
416 determines that either or both of the following measures are necessary to prevent a serious
417 danger to the public health, the commissioner or local public health authority may exercise the
418 following authority:

419 (1) to decontaminate or cause to be decontaminated any individual; provided that
420 decontamination measures must be by the least restrictive means necessary to protect the public
421 health and must be such as are not reasonably likely to lead to serious harm to the affected
422 individual; and

423 (2) to perform physical examinations, tests, and specimen collection necessary to diagnose a
424 disease or condition and ascertain whether an individual presents a risk to public health.

425 If an individual is unable or unwilling to submit to decontamination or procedures necessary for
426 diagnosis, the decontamination or diagnosis procedures may proceed only pursuant to an order
427 of the superior court. During the time necessary to obtain such court order, such individual
428 may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal to
429 submit to decontamination or diagnosis procedures poses a serious danger to public health or
430 results in uncertainty whether he or she has been exposed to or is infected with a disease or
431 condition that poses a serious danger to public health.

432 (d) (1) When the commissioner or a local public health authority within its jurisdiction
433 reasonably believes that a person may have been exposed to a disease or condition that poses a
434 threat to the public health, in addition to their authority under section 96 of chapter 111, the
435 commissioner or the local public health authority may detain the person for as long as may be
436 reasonably necessary for the commissioner or the local public health authority, to convey
437 information to the person regarding the disease or condition and to obtain contact information,
438 including but not limited to the person's residence and employment addresses, date of birth, and
439 telephone numbers.

440 (2) If a person detained under subsection (1) refuses to provide the information requested, the
441 person may be isolated or quarantined pursuant to section 96 of chapter 111 if his or her refusal

442 poses a serious danger to public health or results in uncertainty whether he or she has been
443 exposed to or is infected with a disease or condition that poses a serious danger to public health.
444 (e) This section does not affect the authority of the commissioner or a local public health
445 authority to take action under any other provision of law or under any regulation promulgated
446 pursuant to law.

447 **SECTION 14.** Said chapter 111, as so appearing, is hereby further amended by striking
448 out section 96 and inserting in place thereof the following section:-

449 Section 96. (a) In this section, “isolation” means separation, for the period of communicability,
450 of infected individuals or animals from other individuals or animals in such places and under
451 such conditions as will prevent the direct or indirect transmission of an infectious agent to
452 susceptible people or to other individuals or animals who may spread the agent to others. In this
453 section, “quarantine” means restricting the freedom of movement of well individuals or
454 domestic animals that have been exposed to a communicable disease for a period of time
455 relating to the usual incubation period of the disease, in order to prevent effective contact with
456 those not so exposed. In this section, “disease or condition dangerous to the public health” does
457 not include acquired immune deficiency syndrome (AIDS) or the human immunodeficiency
458 virus (HIV).

459 (b) Whenever the commissioner, or a local public health authority within its jurisdiction,
460 determines that an individual or group of individuals has or may have a disease or condition
461 dangerous to the public health or is or may be infected with an agent of such a disease or
462 condition, which disease or condition is transmissible between people and poses a serious
463 danger to public health, the commissioner, or a local public health authority may order such
464 individual or group to be isolated or quarantined. An order for isolation or quarantine may

465 include any individual who is unwilling or unable to undergo vaccination, precautionary
466 prophylaxis, medical treatment, decontamination, medical examinations, tests, or specimen
467 collection and whose refusal of one or more of these measures poses a serious danger to public
468 health or results in uncertainty whether he or she has been exposed to or is infected with a
469 disease or condition that poses a serious danger to public health. The order may be a verbal
470 order in exigent circumstances, and in such case it shall be followed by a written order as soon
471 as reasonably possible. The written order shall be delivered personally, but if that is not
472 possible, it shall be delivered in a manner that is reasonably calculated to notify the individual
473 or group of it. In the case of a group, this may include delivery through the mass media and
474 posting in a place where group members are reasonably likely to see it.

475 (c) Isolation and quarantine orders must utilize the least restrictive means necessary to prevent a
476 serious danger to public health, and may include, but are not limited to, restricting a person from
477 being present in certain places including but not limited to school or work; confinement to
478 private homes; confinement to other private or public premises; or isolation or quarantine of an
479 area.

480 (d) An officer authorized to serve criminal process may arrest without a warrant any person
481 whom the officer has probable cause to believe has violated an order for isolation or quarantine
482 and shall use reasonable diligence to enforce such order.

483 (e) Any person who knowingly violates an order for isolation or quarantine shall be punished by
484 imprisonment for not more than 30 days and may be subject to a civil fine of not more than one
485 thousand dollars per day that the violation continues.

486 (f) (1) When the commissioner or a local public health authority requires a resident wage earner
487 to be isolated or quarantined, or requires isolation or quarantine of a child under fifteen years of

488 age of whom the wage earner has custody and responsibility, or otherwise interferes with
489 following of his or her employment for the protection of public health, he or she shall be
490 deemed eligible to receive unemployment benefits pursuant to chapter 151A to the extent
491 permitted by federal law.

492 (2) It shall be a violation of section 4 of chapter 151B for an employer to discharge or reduce
493 any benefits of an employee because he or she is subject to an order of isolation or quarantine,
494 or because a child under fifteen years of age of whom the wage earner has custody and
495 responsibility is subject to an order of isolation or quarantine.

496 (g) This section does not affect the authority of the department to isolate or quarantine
497 individuals with active tuberculosis pursuant to the requirements and procedures specified in
498 sections 94A through 94H of chapter 111, and regulations promulgated under those sections.

499 **SECTION 15.** Section 114 of said chapter 111, as so appearing, is hereby amended by
500 striking out, in line 5, the words “under section one hundred and twelve”.

501 **SECTION 16.** Sections 92, 93, 94, 103, 105, 110, 110B, and 113 of chapter 111 are
502 hereby repealed.

503 **SECTION 17.** Section 96A of said chapter 111, as so appearing, is hereby amended by
504 striking out, in lines 5 and 6, the words “except under section ninety-six”.

505 **SECTION 18.** Section 12B of chapter 112, is hereby amended by striking the section in
506 its entirety and replacing it with the following:

507 Section 12B. No physician duly registered under the provisions of section 2, 2A, 9, 9A or 9B,
508 no physician assistant duly registered under the provisions of section 9I or his employing or
509 supervising physician, no nurse duly registered or licensed under the provisions of section s74,
510 74A or 76, no pharmacist duly registered under the provisions of section 24, no pharmacy

511 technician duly registered under the provisions of section 24C, no dentist duly registered under
512 the provisions of section 45, or 45A, no psychologist duly licensed under the provisions of
513 sections 118 through 129, no social worker duly licensed under the provisions of sections 133
514 through 137, no marriage and family therapist or mental health counselor duly licensed under the
515 provisions of sections 165 through 171, and no radiologic technologist duly licensed under the
516 provisions of section 5L of chapter 111, or resident in another state, in the District of Columbia
517 or in a province of Canada, and duly registered or licensed therein, who, in good faith, as a
518 volunteer and without fee, renders emergency care or treatment, other than in the ordinary
519 course of his practice, shall be liable in a suit for damages as a result of his acts or omissions,
520 nor shall he be liable to a hospital for its expenses if, under such emergency conditions, he
521 orders a person hospitalized or causes his admission.

522 **SECTION 19.** Section 12C of chapter 112 is hereby amended by striking the section in
523 its entirety and replacing it with the following:

524 Section 12C. No physician or nurse administering immunization or other protective programs
525 under public health programs, and no other person assisting in the foregoing, shall be liable in a
526 civil suit for damages as a result of any act or omission on his part in carrying out his duties.

527 **SECTION 20.** Section 12V of chapter 112 is hereby amended by striking out, in line 1,
528 the words

529 “, whose usual and regular duties do not include the provision of emergency medical care, and”

530 **SECTION 21.** Section 13 of chapter 122, as appearing in the 2006 Official Edition, is
531 hereby amended by striking out, in line 6, the words “and it shall have the same authority to
532 remove such person thereto as is conferred upon boards of health by section ninety-five of
533 chapter one hundred and eleven,”

534 **SECTION 22.** Chapter 258 of the General Laws, as appearing in the 2006 Official
535 Edition, is hereby amended by inserting after section 2 the following section:
536 Section 2A: For purposes of this chapter, in response to a declared state of emergency as
537 defined under chapter 639 of the acts of 1950, as amended, or in response to an emergency
538 detrimental to the public health declared under section 2A of chapter 17, all persons acting
539 within the scope of rendering assistance or advice during the emergency and at the request or
540 order of an employee, representative, or agent of a public employer shall be a public employee
541 of the public employer making such request or order. The immunities provided in this section
542 shall not apply to any person whose act or omission caused in whole or in part the emergency or
543 who would otherwise be liable therefor.

544 **SECTION 23.** Chapter 268 of the General Laws, as appearing in the 2006 Official
545 Edition is hereby amended by inserting after section 33A the following section:-
546 Section 33B. Whoever falsely makes, forges, counterfeits, alters, or tampers with any
547 identification card or other insignia issued by or under the authority of the commonwealth, or by
548 or under the authority of a Massachusetts medical reserve corps or a Massachusetts disaster
549 medical assistance team established pursuant to federal law, or with intent to defraud uses or
550 possesses any such identification card or insignia, or impersonates or falsely represents himself
551 to be or not to be a person to whom such identification card or insignia has been duly issued, or
552 willfully allows any other person to have or use any such identification card or insignia, issued
553 for his use alone, shall be punished by a fine of not more than five thousand dollars or
554 imprisonment for not more than one year, or both.

555 **SECTION 24.** The department of public health shall convene a panel of public health
556 preparedness experts to assess current funding resources available for preparedness activities in

557 the Commonwealth and to examine what funding will be needed to sustain state and local
558 preparedness activities. The panel, which shall include representatives from hospitals, local
559 public health authorities, and other health and medical providers, shall convene within 30 days
560 of the effective date of this act and report to the joint committee on public health, the joint
561 committee for health care financing, the house committee on ways and means, and the senate
562 committee on ways and means within 9 months of the effective date of this act.

563 **SECTION 25.** The Board of Registration in Pharmacy and a representative from the
564 National Association of Chain Drug Stores, in conjunction with the department of public health,
565 shall study the feasibility of a statewide pharmacy and drug store electronic communication
566 network, that may be used to track trends in pharmacy purchases for the purpose of identifying a
567 possible or emerging threat to public health and evaluating trends in epidemic or pandemic
568 disease.

569 **SECTION 26.** Chapter 175 of the General Laws, as appearing in the 2004 official
570 edition, is hereby amended by inserting after section 24F the following section:
571 Section 24G.

572 (a) Any policy, contract, agreement, plan, or certificate of insurance for coverage of health care
573 services, including any sickness, health, or welfare plan issued within or without the
574 commonwealth, including but not limited to those of a carrier as defined under section 1 of
575 chapter 176O, or other state approved health plans, shall provide that, in the event of a
576 declaration of a public health emergency or state of emergency by the governor of the
577 commonwealth which necessitates a suspension of all elective procedures, there will be a
578 waiver of administrative requirements within the zone of that suspension of elective procedures,
579 including but not limited to: utilization review, prior authorization, advance notification upon

580 admission or delivery of services, and limitation on provider networks for treating or transfer of
581 patients. During such declared public health emergency or such state of emergency, all prompt
582 claims payment requirements, including the payment of interest for late processing, are waived
583 for services rendered during such public health emergency or state of emergency.

584 (b) Upon the declared end of such public health emergency or such state of emergency, there
585 shall be within 180 days a reconciliation of charges and reimbursements, during which time
586 claims may be adjusted or re-adjudicated based on the provisions of any contract between the
587 provider and health carrier, except that such reimbursement shall not be conditioned on the
588 execution during the public health emergency or state of emergency of pre-notification or pre-
589 authorization requirements. In the event that there is no contract between the provider and
590 health carrier, reconciliation will be based on reimbursement amounts equal to the carrier's
591 usual and customary reimbursement rates in force at the date of service, except that for services
592 provided to MassHealth members, reconciliation will be based on reimbursement amounts equal
593 to the MassHealth reimbursement rates in force on the date of service. Upon completion of the
594 reconciliation, any carrier overpayments will be reimbursed by the provider to the carrier and
595 any underpayments will be paid by the carrier to the provider. Investigations of fraud and
596 resultant recovery actions are not subject to this reconciliation period, but must be initiated
597 within three years from the date of the declared end of the public health emergency or state of
598 emergency.

599 (c) A health care insurer shall include the provisions of subsections (a) and (b) in all contracts
600 between the insurer and a health care provider entered into, renewed, or amended on or after the
601 effective date of these subsections.

602 **SECTION 27.** The department of public health is authorized to promulgate and
603 implement rules and regulations that are reasonable and necessary to implement this Act.

604 **SECTION 28.** This Act shall take effect upon its passage.